



COUR EUROPÉENNE DES DROITS DE L'HOMME
EUROPEAN COURT OF HUMAN RIGHTS

FOURTH SECTION

CASE OF NOWAKOWSKI v. POLAND

(Application no. 71009/01)

JUDGMENT
(Friendly Settlement)

STRASBOURG

29 July 2003

This judgment is final but it may be subject to editorial revision.

In the case of Nowakowski v. Poland,

The European Court of Human Rights (Fourth Section), sitting as a Chamber composed of

Sir Nicolas BRATZA, *President*,

Mr M. PELLONPÄÄ,

Mrs E. PALM,

Mrs V. STRÁŽNICKÁ,

Mr J. CASADEVALL,

Mr R. MARUSTE,

Mr L. GARLICKI, *judges*,

and Mr M. O'BOYLE, *Section Registrar*,

Having deliberated in private on 8 July 2003,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 71009/01) against the Republic of Poland lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Polish national, Mr Stanisław Nowakowski ("the applicant"), on 11 April 2000.

2. The Polish Government ("the Government") were represented by their Agent, Mr K. Drzewicki, of the Ministry of Foreign Affairs.

3. The applicant complained under Article 6 § 1 of the Convention about the length of a set of civil proceedings.

4. On 17 December 2002 the Court decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

5. On 8 April and on 15 April 2003 the Government and the applicant respectively submitted formal declarations accepting a friendly settlement of the case.

THE FACTS

6. The applicant was born in 1932 and lives in Ożarów Mazowiecki, Poland.

7. Since 1969 the applicant had been receiving a monthly pension from the State Insurance Company (*Państwowy Zakład Ubezpieczeń*). It appears that in 1987 the company stopped the payments.

8. On 10 May 1993 the applicant lodged with the Pruszków District Court (*Sąd Rejonowy w Pruszkowie*) an action for payment against the State Insurance Company. The applicant also requested a revaluation of the amount of the pension which would reflect the inflation.

9. It appears that the first and the second hearing, scheduled for 24 May and 2 June 1993, were adjourned because of the absence of the defendant.

10. From 9 September 1993 to 26 February 2001 the District Court listed twenty-three hearings. Most of them were adjourned. It also obtained four expert opinions.

11. On 12 March 2001 the Pruszków District Court gave judgment. It partly allowed the applicant's claim and increased the amount of his pension.

12. On 6 December 2001, on the applicant's appeal, the Warsaw Regional Court upheld that judgment.

THE LAW

13. The applicant complained under Article 6 § 1 of the Convention that the proceedings in his case had exceeded a reasonable time.

A. Admissibility

14. The Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. The Court therefore declares it admissible.

B. Solution reached

15. On 8 April 2003 the Court received the following declaration from the Government:

"I declare that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Poland offer to pay PLN 15,000 to Mr Stanisław Nowakowski. This sum (PLN 15,000) is to cover any pecuniary and non-pecuniary damage as well as costs. It will be payable, free of any taxes that may be applicable, within three months from the notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay this sum within the said three-months period, the Government undertake to pay, until settlement, simple interest on the amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

This payment will constitute the final resolution of the case."

16. On 15 April 2003 the Court had received the following declaration signed by the applicant:

“I note that, with a view to securing a friendly settlement of the above-mentioned case, the Government of Poland offer to pay me the sum of PLN 15,000. This sum (PLN 15,000) shall cover any pecuniary and non-pecuniary damage as well as costs and expenses. It will be paid, free of any taxes that may be applicable, within three months from the notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

I accept the proposal and waive any further claims against Poland in respect of the facts of this application. I declare that this constitutes a final settlement of the case.”

17. The Court takes note of the agreement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 §§ 3 and 4 of the Rules of Court).

18. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Declares the application admissible;
2. *Decides* to strike the case out of the list.

Done in English, and notified in writing on 29 July 2003, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Michael O’BOYLE
Registrar

Nicolas BRATZA
President